

# BUREAU FOR PRIVATE POSTSECONDARY EDUCATION

## ORDER OF ADOPTION

### Chapter 5. Student Tuition Recovery Fund

#### Article 1. General Provisions

##### § 76000. Definitions.

For purposes of this chapter, the following definitions apply:

- (a) "California resident" means a person who resides in California at the time the enrollment agreement is signed or when the person receives lessons at a California mailing address from an approved institution offering distance education.
- (b) "Closed institution" means an institution at which a closure has occurred.
- (c) "Economic loss" means pecuniary loss, which is the sum of the student's tuition, cost of equipment and materials required for the educational program as defined in section 94837 of the Code, and interest on any student loan used to pay for such charges, collection costs and penalties. Economic loss shall also include the amount the institution collected and failed to pay to third parties on behalf of the student for license fees or any other purpose. Economic loss does not include Student Tuition Recovery Fund assessments, room and board, supplies, transportation, application fees, or non-pecuniary damages such as inconvenience, aggravation, emotional distress, or punitive damages.
- (d) "Fund" means the Student Tuition Recovery Fund.
- (e) "Prepaid" describes any amount of money that an institution accepts in advance of rendering educational services.
- (f) "Qualifying institution" is an approved institution or an institution subject to the provisions of Article 14, commencing with section 94923 of the Code, and section 94874.1 of the Code.
- (g) "Residency Program" means an educational program as defined in section 94837 of the Code at an approved institution of which some portion of the instruction occurs as direct instruction as defined in section 71715(c).
- (h) "STRF" means Student Tuition Recovery Fund.
- (i) "Student Tuition Recovery Fund assessment" or "STRF assessment" means a state-imposed charge to fund this chapter that is required to be paid by a California resident student or a student enrolled in a residency program, who pays tuition to an institution.

(j) "Teach-out institution" means the institution offering a teach-out to a former student of an institution that has ceased to operate.

Note: Authority cited: Sections 94803, 94877 and 94923, Education Code. Reference: Sections 94874.1, 94923, 94926, 94927 and 94927.5, Education Code.

### **§ 76010. Teach-Out Plan. [Repealed]**

Note: Authority cited: Sections 94770, 94774 and 94778, Education Code. Reference: Section 94944, Education Code.

### **§ 76020. Student Tuition Recovery Fund (STRF).**

(a) The fund exists to relieve or mitigate ~~pecuniary~~ economic losses suffered by a student ~~of~~ in an educational program as defined in section 94837 of the Code at a qualifying institution, who is or was a California resident or was enrolled in a residency program, if the student enrolled in the institution, prepaid tuition, paid the assessment, and suffered loss as a result of any of the following:

- (1) The closure of the institution;
- (2) The institution's failure to pay refunds or charges on behalf of a student to a third party for license fees or any other purposes, or to provide equipment or materials for which a charge was collected within 180 days before the closure of the institution;
- (3) The institution's failure to pay or reimburse loan proceeds under a federally guaranteed student loan program as required by law or to pay or reimburse proceeds received by the institution prior to closure in excess of tuition and other costs;
- (4) A significant decline in the quality or value of the educational program within the 30-day period before the closure of the institution or, if the decline began before that period, the period of decline determined by the Bureau, to a degree that results in the institution's failure to meet minimum operating or academic standards; and
- (5) The student's inability to collect a judgment entered against a qualifying institution for a violation of the Act, subject to all of the following:
  - (A) The student has reasonably tried, and failed, to collect on the judgment. The Bureau will determine the reasonableness of the effort on a case-by-case basis;
  - (B) The Bureau receives the student's application within 4 years from the school's closure;
  - (C) The student has not received reimbursement or forgiveness from any other source.

(b) A student whose total charges were paid by a third-party payer is not eligible to make a claim.

Note: Authority cited: Sections 94803, 94877 and 94923, Education Code. Reference: Sections 94874.1, 94923, 94926, 94927 and 94927.5, Education Code.

## Article 2. STRF Assessments

### **§ 76120. Amount of STRF Assessment.**

(a) Each qualifying institution shall collect an assessment of two dollars and fifty cents (\$2.50) per one thousand dollars (\$1,000) of institutional charges, rounded to the nearest thousand dollars, from each student in an educational program who is a California resident or is enrolled in a residency program. For institutional charges of one thousand dollars (\$1,000) or less, the assessment is two dollars and fifty cents (\$2.50).

(b) Unless a student has a separate agreement to repay the third party, a student whose costs are paid to the institution by third-party payer shall not pay the STRF assessment to the qualifying institution.

(c) Except when an institution provides a 100% refund pursuant to section 94919(d) or section 94920(b) of the Code, the assessment is non-refundable.

Note: Authority cited: Sections 94803, 94877 and 94923, Education Code. Reference: Sections 94923, 94843 and 94911(b), Education Code.

### **§ 76130. Collection and Submission of Assessments.**

(a) A qualifying institution shall collect the assessment from each student in an educational program at the time it collects the first payment from or on behalf of the student at or after enrollment. The assessment shall be collected for the entire period of enrollment, regardless of whether the student pays the institutional charges in increments.

(b) A qualifying institution shall complete the STRF Assessment Reporting Form (Rev. 2/10) and remit it with the STRF assessments collected from students to be received by the Bureau no later than the last day of the month following the close of the quarter as follows:

- (1) April 30 for the first quarter,
- (2) July 31 for the second quarter,
- (3) October 31 for the third quarter, and

(4) January 31 for the fourth quarter. If the due date falls on a Saturday, Sunday or State or federal holiday, the due date shall be extended to the next regular business day for the Bureau.

If the due date falls on a Saturday, Sunday, or State or federal holiday, the due date shall be extended to the next regular business day for the Bureau.

(c) The STRF Assessment Reporting Form shall contain the following information:

(1) Total number of students who signed enrollment agreements for educational programs during the reporting period; and

(2) Total number of students eligible for STRF who signed enrollment agreements for educational programs during the reporting period; and

(3) The total number of students who signed their enrollment agreement during the reporting period, were eligible for STRF, and who made their first payment during the reporting period; and

(4) The total number of students who signed their enrollment agreement in a previous reporting period, were eligible for STRF, and who made their first payment during the current reporting period; and

(5) Total amount of institutional charges after rounding each student's institutional charges to the nearest \$1,000, for all eligible STRF students whose STRF assessment was collected in the reporting period; and

(6) Current contact telephone number of the person preparing the form; and

(7) A declaration dated and signed under penalty of perjury by the person preparing the form that the form and any attachments are true and correct.

(d) In the event of a school closure, any collected assessments shall be remitted to the Bureau within seven days following the cessation of instruction.

(e) Submission of all prior reports and assessments required by this section is a condition of renewal.

Note: Authority cited: Sections 94803, 94877 and 94923, Education Code. Reference: Section 94923, Education Code.

#### **§ 76140. Record-Keeping Requirements.**

(a) A qualifying institution shall collect and maintain records of student information to substantiate the data reported on the STRF Assessment Reporting Form and records of

the students' eligibility under the Fund. Such records shall include the following for each student:

- (1) Student identification number,
- (2) First and last names,
- (3) Email address,
- (4) Local or mailing address,
- (5) Address at the time of enrollment,
- (6) Home address,
- (7) Date enrollment agreement signed,
- (8) Courses and course costs,
- (9) Amount of STRF assessment collected,
- (10) Quarter in which the STRF assessment was remitted to the Bureau,
- (11) Third-party payer identifying information,
- (12) Total ~~tuition~~ institutional charges charged, and
- (13) Total ~~tuition~~ institutional charges paid.

(b) The qualifying institution shall maintain the data required under this section in an electronic format that is readily available and open to inspection by the Bureau upon request. The institution shall make the records immediately available to a Bureau representative conducting a site inspection or, upon written request, shall provide a copy within 14 calendar days of the request. All records shall be provided to the Bureau in an intelligible and orderly manner and in an electronic format.

Note: Authority cited: Sections 94803, 94877 and 94923, Education Code. Reference: Section 94923, Education Code.

### Article 3. Payments from the Fund

#### **§ 76200. Application for Payment.**

(a) A student seeking reimbursement under the Fund shall file a written application on the Bureau's Student Tuition Recovery Fund Application Form (STRF App Rev. 2/10),

signed under penalty of perjury that the form and all attachments are true and correct, which includes the following information:

- (1) The student's name, address, telephone number, email address, and social security number or taxpayer identification number;
- (2) If any portion of the total charges were paid from the proceeds of a loan, the name of the lender, and any state or federal agency that guaranteed or reinsured the loan;
- (3) Proof of the amount and description of the student's economic loss for the educational program, and the amount of the student's claim;
- (4) Proof of the date the student started and ceased attending the institution;
- (5) A description of the reasons the student ceased attending the institution, or if the student graduated, date of graduation;
- (6) The student's or borrower's authorization to allow the Bureau to negotiate with any lender, holder, guarantee agency, or the U.S. Department of Education on the student's behalf to reduce the loan obligation;
- (7) The student's authorization to allow the Bureau to issue a payment directly to any lender, holder, guarantee agency, or the U.S. Department of Education on the student's behalf; and
- (8) An assignment to the Fund and the Bureau of the student's rights to collect those funds against the institution if any payment issues as a result of the application;
- (9) The institution name, address and phone number ~~in which~~ where the students attended;
- (10) Proof that the student was a California resident at time of enrollment, or was enrolled in a residency program;
- (11) Proof that the student paid into the STRF;
- (12) If the student took an approved leave of absence, ~~and~~ documentation of the approval;
- (13) Whether the student has previously applied for STRF reimbursement;
- (14) Whether the course of study or portion completed prepared the student to take a state or national licensure exam; and
- (15) If the student transferred to another school, a list of all classes or units transferred.

(b) The application must be fully completed and received by the Bureau, with supporting documents that include, but need not be limited to, the enrollment agreement, promissory notes, if any, and any receipts, within two years from date of the closure notice explaining the student's rights under STRF, whether provided by the institution or the Bureau, or a maximum of four years if the student received no closure notice.

(c) Students whose total charges are paid by a third party payer are not eligible to apply for payment by the Fund.

(d) The Bureau may conduct an investigation to verify whether to grant or deny a claim, and may request any additional information or supporting documentation.

Note: Authority cited: Sections 94803, 94877 and 94923, Education Code. Reference: Sections 94870 and 94923, Education Code.

### **§ 76210. Claims Amount, Payment and Denial.**

(a) The Bureau may negotiate with a lender, holder, guarantee agency, or the U.S. Department of Education for the full compromise or write-off of student loan obligations to relieve students of economic loss and, if possible, to reduce the liability of the Fund for the payment of claims.

(b) The Bureau may pay a student's claim directly to the lender, holder, guarantee agency, or U.S. Department of Education.

(c) If the Bureau grants the claim, the amount of the payment is measured by the total amount of the student's economic loss, as defined in Section 76000, less the amount of any refund, reimbursement, indemnification, restitution, compensatory damages, settlement, debt forgiveness, discharge, cancellation, compromise or any other benefit received by, or on behalf of, the student that was related to the economic loss. The amount of the payment is not dependent on, or necessarily limited to, the amount of refund the student would have received from the institution if the student had voluntarily withdrawn. The Bureau cannot pay any claim to a student without a social security number or a taxpayer identification number.

(d) In addition to the reductions in (c) above, the Bureau may reduce the amount of the payment by the value of the benefit, if any, of the education obtained by the student before the closure of the institution.

(e) If a student participated in a teach-out, the following conditions also apply:

(1) If the student withdraws from the teach-out institution within the first two weeks of enrollment, the student's economic losses are calculated as though the student never received the teach-out.

(2) If the student withdraws from the teach-out institution after the first two weeks of enrollment, the student's economic loss includes only a pro rata portion of charges for the hours of the education service paid for, but not received from, either institution.

(3) If the teach-out institution provides all of the remaining instruction that the closed institution had represented it would provide, the student's economic loss shall not include any amount the student paid to the closed institution specifically for instruction.

(4) Regardless of participation in a teach-out, a student may recover economic losses other than those specifically related to the instruction.

(f) Upon payment of the claim, all of the student's rights against the institution for that amount of payment shall be deemed assigned to the Bureau.

(g) If the Bureau denies the claim, or reduces the amount of the claim, the Bureau may informally consider a written appeal and modify its decision.

(h) If a written appeal is not received by the Bureau within 30 calendar days from the date of the decision, the Bureau's decision shall be final.

Note: Authority cited: Sections 94803, 94877 and 94923, Education Code. Reference: Section 94923, Education Code.

### **§ 76212. Claims by Government Agency on Behalf of Students.**

If the Bureau, the Attorney General, or any other law enforcement agency obtains a judgment against an institution on behalf of one or more students pursuant to Section 17200 of the Business and Professions Code or similar authority, that law enforcement agency shall be entitled to payment from the Fund under the following conditions:

(a) The institution was qualified and is now closed;

(b) A remedy cannot be obtained despite diligent efforts to prosecute, prove, and collect a judgment;

(c) A claim is filed within two years after the judgment became final;

(d) A claim indicating the total amount of the judgment allocable to each student is filed; and

(e) The total amount paid to each student does not exceed the amount that the student would have been entitled to receive if the student had obtained a judgment for the amount allocable to the student.

Note: Authority cited: Sections 94803, 94877 and 94923, Education Code. Reference: Section 94923, Education Code.

## **§ 76215. Student Tuition Recovery Fund Disclosures.**

(a) A qualifying institution shall include the following statement on both its enrollment agreement for an educational program and its current schedule of student charges:

“You must pay the state-imposed assessment for the Student Tuition Recovery Fund (STRF) if all of the following applies to you:

1. You are a student in an educational program, who is a California resident, or are enrolled in a residency program, and prepay all or part of your tuition either by cash, guaranteed student loans, or personal loans, and
2. Your total charges are not paid by any third-party payer such as an employer, government program or other payer unless you have a separate agreement to repay the third party.

You are not eligible for protection from the STRF and you are not required to pay the STRF assessment, if either of the following applies:

1. You are not a California resident, or are not enrolled in a residency program, or
2. Your total charges are paid by a third party, such as an employer, government program or other payer, and you have no separate agreement to repay the third party.”

(b) In addition to the statement described under subdivision (a) of this section, a qualifying institution shall include the following statement on its current schedule of student charges:

“The State of California created the Student Tuition Recovery Fund (STRF) to relieve or mitigate economic losses suffered by students in educational programs who are California residents, or are enrolled in a residency program attending certain schools regulated by the Bureau for Private Postsecondary and Vocational Education.

You may be eligible for STRF if you are a California resident or are enrolled in a residency program, prepaid tuition, paid the STRF assessment, and suffered an economic loss as a result of any of the following:

1. The school closed before the course of instruction was completed.
2. The school's failure to pay refunds or charges on behalf of a student to a third party for license fees or any other purpose, or to provide equipment or materials for which a charge was collected within 180 days before the closure of the school.
3. The school's failure to pay or reimburse loan proceeds under a federally guaranteed student loan program as required by law or to pay or reimburse proceeds received by the school prior to closure in excess of tuition and other costs.
4. There was a material failure to comply with the Act or this Division within 30 days before the school closed or, if the material failure began earlier than 30 days prior to closure, the period determined by the Bureau.
5. An inability after diligent efforts to prosecute, prove, and collect on a judgment against the institution for a violation of the Act.”

However, no claim can be paid to any student without a social security number or a taxpayer identification number.

Note: Authority cited: Sections 94803, 94877 and 94923, Education Code. Reference: Section 94923, Education Code.

#### Article 4. Orderly Closure and Teach-Outs

##### **§ 76240. Required Notices and Teach-Out Plan.**

All institutions, including those exempt from Bureau regulation pursuant to the Code, shall do the following prior to closing:

(a) At least 30 days prior to closing, the institution shall notify the Bureau in writing of its intention to close and provide a closure plan. The closure plan shall include:

- (1) The exact date and reason for the closure.
- (2) The last date of instruction for each educational service or program.
- (3) A list of students who were enrolled at any time during the 60 days prior to closure.

(4) If any student will not be provided complete educational services or the educational program, the institution shall provide:

(A) A plan for providing teach-outs or transfers, including the details of any agreements with other institutions.

(B) If no teach-out is contemplated, or for students who do not wish to participate in a teach-out, arrangements for making refunds within 45 days from the date of closure, or for institutions that participate in federal student financial aid programs arrangements for making refunds and returning federal student financial aid program funds.

(5) A plan for the disposition of student records.

(6) A plan to notify students of their rights and options under the Act and this chapter.

(b) The institution shall notify the students of the following:

(1) If the institution is a participant in federal student financial aid programs, it shall provide students information concerning those programs and institutional closures.

(2) If any student will not be provided complete educational services or the educational program, information regarding the Student Tuition Recovery Fund and the Bureau's physical and Internet addresses.

Note: Authority cited: Sections 94803 and 94877, Education Code. Reference: Sections 94874.5, 94909, 94911, 94926, 94927 and 94927.5, Education Code.